

Notice of Allowability

Application No.

10/510,451

Applicant(s)

HEINRICH, RUSSELL

Examiner

Michael G. Mendoza

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the after final amendment received 12/17/2007.
2. ☒ The allowed claim(s) is/are 1-4, 7-31, 47-51, 55-66, and 75.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

REASONS FOR ALLOWANCE

1. The following is an examiner's statement of reasons for allowance: the prior art of record fails teach or render obvious the overall claimed method for enhancing one or more properties of body tissue to be repaired or joined by surgical staples comprising the steps of: providing a surgical stapler including a body tissue property enhancing system configured and adapted to enhance one or more properties of the body tissue to be repaired or joined by surgical staples formed by firing them into body tissue, the body tissue property enhancing system including a reservoir of biocompatible wound closure material and a plurality of ducts in communication with the reservoir and the working surface of a cartridge; and a plurality of deployable needles each having a tip, the needles being adapted and disposed in the ducts such that the tip can be extended out of the working surface of the staple cartridge to penetrate at least a layer of body tissue and to allow the biocompatible wound closure material to be delivered through the needles to penetrate one or more layers of body tissue; approximating a staple anvil and staple cartridge with adjacent layers of body tissue therebetween; and firing the surgical stapler, wherein firing of the surgical stapler includes driving a plurality of surgical staples through the adjacent layers of body tissue to mechanically secure the layers of body tissue together and concomitantly activating the body tissue enhancing system to enhance one or more properties of the adjacent layers of repaired or joined body tissue.

2. The prior art of record fails to teach or render obvious the overall claimed invention of a surgical stapler comprising: a staple cartridge assembly operatively

connected to a distal end of a tubular body, the staple cartridge including a pair of annular arrays of staple receiving slots, wherein each staple receiving slot includes a surgical staple disposed therein for mechanically securing adjacent layers of body tissue to one another, an anvil member operatively connected by a shaft to the distal end of the tubular body, opposite the staple cartridge assembly; and a body tissue property enhancing system configured and adapted to non-mechanically enhance one or more properties of the adjacent layers of repaired or joined body tissue to one another along an annular staple line formed by the firing of the surgical stapler, the body tissue property enhancing system including an annular array of needle receiving slots, and a plurality of deployable needles disposed, one each, in the annular array of needle receiving slots for delivering the body tissue enhancer through the needles.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on (571) 272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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SUPERVISORY PATENT EXAMINER